

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES O. ZEBLEY JR, TRUSTEE)	
)	
Plaintiff,)	Civil No. 18-1279
)	Judge Marilyn J. Horan/
v.)	Magistrate Judge Cynthia Reed Eddy
)	
HCL AMERICA, INC. AND LEGO)	
SYSTEMS INC.,)	
)	
Defendants.)	

MEMORANDUM ORDER

This case has been referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges. On May 3, 2021, the Magistrate Judge issued a Report and Recommendation, ECF No. 106, recommending that Defendants’ Motion for Summary Judgment, ECF No. 74, be denied. The parties were informed that written objections to the Report and Recommendation were due by May 17, 2021. Defendants timely filed Objections to which Plaintiff has filed a Response. ECF Nos. 107 & 108. The filing of timely objections requires the district judge to “make a de novo determination of those portions of the report . . . to which objection is made.” 28 U.S.C. § 636(b)(1); Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); Fed. R. Civ. P. 72(b)(3). Defendants Object to the Magistrate’s evaluation of the record evidence and her conclusion that genuine issues of material fact exist with respect to Plaintiff’s prima facie case and proof regarding pretext.

Following a de novo review of the relevant pleadings and documents in this case, together with the Report and Recommendation, and Objections thereto, the Court finds that Defendants’ Objections do not undermine the recommendation of the Magistrate Judge.

Defendants' Objections argue for the Court, instead of a factfinder, to determine disputed issues of material fact. In ruling on a motion for summary judgment, however, the court's function is not to weigh the evidence, make credibility determinations or to determine the truth of the matter, but only to determine whether the evidence of record is such that a reasonable jury could return a verdict for the nonmoving party. Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 150–51 (2000). The record evidence in this case presents disputed issues of material fact that are to be determined by a factfinder. Viewing the evidence in a light most favorable to the nonmoving party, a reasonable factfinder could conclude from the evidence that the decision not to recommend Plaintiff for hire, but instead to recommend a younger candidate, was based on age discrimination. A reasonable factfinder could further conclude that Defendants' legitimate, non-discriminatory reasons for not recommending Plaintiff for hire were a pretext for age discrimination. The Objections by Defendants will be overruled, and the Report and Recommendation will be adopted as the Opinion of the Court.

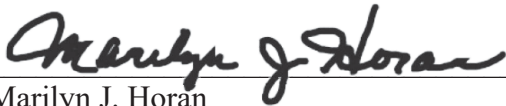
Accordingly, the following order is entered:

AND NOW, this 25th day of May 2021, it is hereby ORDERED as follows:

The Magistrate Judge's Report and Recommendation, ECF No. 106, dated May 3, 2021, is adopted as the Opinion of the Court. IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment, ECF No. 74, is DENIED.

This matter is referred back to the Magistrate Judge for further proceedings.

By the Court:


Marilyn J. Horan
United States District Judge